



W.P(MD)No.21883 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.11.2024

CORAM :

**THE HONOURABLE MR.JUSTICE M.S.RAMESH
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

W.P(MD)No.21883 of 2023

Dr.R.Madhuvaran

... Petitioner

vs.

1. The District Collector,
Sivagangai District,
Sivagangai.

2. The Revenue Divisional Officer,
R.D.O. Office,
Devakottai, Sivagangai District.

3. The Tahsildar
Thiruppathur Taluk Office,
Thiruppathur,
Sivagangai District.

4. The Block Development Officer,
Thiruppathur Panchayat Union,
Thiruppathur,
Sivagangai District.

5. The President,
Alampatti Village Panchayat,
Thiruppathur Panchayat Union,
Sivagangai District.

6. C.Kasinathan



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7. M.Balu

8. Ramanathan

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 5 to remove the encroachment made by the respondents 6 to 8 and others in Government Land in Survey Nos.427/1 (Public Pathway) 426/55 (Nondiswamy Kovil Pathway) and 426/47 (Pathway) at Alampatti Village, Thiruppathur Taluk, Sivagangai District, within the time limit that may be fixed by this Hon'ble Court.

For Petitioner : Mr.A.Karthik
For R1 to R5 : Mr.SRA.Ramachandran
Additional Government Pleader
For R6 : Mr.V.Malaiyendran

ORDER

(Order of the Court was made by **M.S.RAMESH, J.**)

This writ petition has been filed for a Mandamus, directing the respondents 1 to 5 to remove the encroachment made by the respondents 6 to 8 and others in Government Land in Survey No.427/1 (Public Pathway), Survey No.426/55 (Nondiswamy Kovil Pathway) and Survey No.426/47 (Pathway) at Alampatti Village, Thiruppathur Taluk, Sivagangai District, within a time frame.



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2. The learned counsel appearing for the petitioner would submit that there is a public pathway in the above said survey numbers, which is encroached upon by the private respondents herein, by putting up concrete walls, roofing shed and sunshade. After repeated representations, the Revenue Inspector, Thiruppathur Firka, conducted a field inspection on 13.05.2019 and sent a report to the 3rd respondent / Tahsildar, stating that the private respondents have encroached upon the said public pathway. Pursuant to the said report, though the 3rd respondent instructed to remove the encroachment, no action was taken. Hence, the petitioner filed W.P(MD)No.13395 of 2019, seeking eviction of encroachment, which was disposed of on 19.09.2019, with a direction to remove the encroachment within eight weeks. Pursuant to the direction of this Court, though the 3rd respondent directed the 4th respondent / Block Development Officer, who in turn, directed the 5th respondent / Village Panchayat President, to remove the encroachment, nothing was done. Even the subsequent issuance of show cause notice dated 08.08.2022 to the private respondents under Section 7 of the Tamil Nadu Land Encroachment Act, 1905, followed by eviction notice dated 07.09.2022 under Section 6, had not been acted upon. Finding that his repeated representations did not yield any result, the petitioner has come forward with this writ petition.



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3. Heard the learned counsel for the petitioner, learned Additional Government Pleader appearing for the respondents 1 to 5 and the counsel for the 6th respondent. Despite respondents 7 and 8 have been served and their names are shown in the cause list, none appeared on their behalf either in person or through counsel.

4. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon him to consider the same on its own merits and pass appropriate orders in one way or other, instead of keeping the same pending indefinitely. As such, non-consideration of the representation by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking its extraordinary powers under Article 226 of the Constitution of the India and direct them to consider the same within a stipulated time.

5. In the light of the above observations, the petitioner is directed to make a fresh representation to the official respondents ventilating his grievances. On receipt of such representation, the official respondents herein, shall consider the same on its own merits and pass appropriate orders in accordance with law, after giving due opportunity to the petitioner and the



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private respondents herein, as well as all other persons, who may be interested in the subject property, within a period of twelve weeks from the date of receipt of the representation. It is made clear that this Court has not expressed any of its views with regard to the merits of the matter and that it is open to the concerned respondents to consider the same on its own merits.

6. With the above direction, the Writ Petition stands disposed of. No costs.

(M.S.R, J.) (A.D.M.C, J.)
12.11.2024

Index : Yes / No
Neutral Citation : Yes / No
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